IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

THURSDAY, THE 12TH APRIL 2007 / 22ND CHAITHRA 1929

WP(C).No. 9496 of 2004(E)

EP.111/1997 IN OS.644/1992 of SUB COURT, TIRUR

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PETITIONER:

V.K.ANTONY, S/O.KUNJU UTHUP, VADASSERY,
PARIYARAM P.O. CHALAKKUDY VIA.

BY ADV. SRI.P.KESAVAN NAIR
SRI.K.G.CLEETUS

RESPONDENTS:

1. T.V.VISWANANTHAN, S/O.KUMARAN NAIR,
THEKKEPALASSERYVELUTHEDATH, THRIKULAM AMSOM,
THIROORRNGADI, MALAPPURAM DISTRICT.

2. THE SUB COURT, THIROOR, THIROOR P.O.

R1 BY ADV.SRI.T.K.KOSHY
R2 BY GOVT. PLEADER SRI.SHYSON P.MANGUZHA

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 12/04/2007 ALONG WITH WPC NO.21532 OF 2005 AND WPC NO. 14989 OF 2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.P. Balachandran, J.

W.P.(C)Nos.9496/2004, 21532/2005 & 14989/2006

JUDGMENT

It is submitted by the counsel for the petitioners in W.P.(C)No.21532/05 that the order dated 30.3.2007 to deposit Rs.80,000/- and a further amount of Rs.70,000/- respectively on 2.4.2007 and 4.4.2007 has been complied with. Counsel for the respondents/decree holders prays that the amount of Rs.80,000/- and Rs.70,000/- deposited by the petitioners in compliance with the order dated 30.3.2007 be allowed to be withdrawn. Counsel for the petitioners has no objection. Hence, the respondents/decree holders are allowed to withdraw the amounts of Rs.80,000/- and Rs.70,000/- deposited by the petitioners in the court below respectively on 2.4.2007 and 3.4.2007.

2. It is contended by the counsel for the petitioners in W.P.(C)No.21532/05 that Rule 66

notices issued to the petitioners respectively on 4.8.2006 and 12.3.2007 would go to show that an amount of Rs.50,000/- deposited on 31.8.2006 by the petitioners and Rs.1,50,000/- deposited on 4.10.2006 by the petitioner in W.P.(C)No.14989/06 are not given credit to and that if those amounts are also given credit to, the balance amount due under the decree will only be around Rupees ten thousand.

3. Counsel for the respondents/decree holders in the writ petitions aforesaid, who is also the petitioner in W.P.(C)No.9496/04, submits that more than Rupees two lakhs is due to the decree holders and that if the amounts of Rs.50,000/- and Rs.1,50,000/- stated to have been deposited respectively on 31.8.2006 and 4.10.2006 are actually there; there is no much dispute with respect to the balance amount and that, therefore, the execution court may be directed to ascertain whether the above deposits were actually made as

represented by the petitioners in W.P.(C) No.21532/05 and the petitioner in W.P.(C)No. 14989/06 and to give credit to those amounts, if such deposits are actually there and to take steps for recovery of the balance amount only. Counsel on both sides are agreeable for these writ petitions being disposed of with such directions.

In the result, I dispose of these writ petitions, directing the execution court to verify the correctness of the above two deposits alleged to have been made respectively by the petitioners in W.P.(C)Nos.21532/05 and 14989/06 and to proceed to recover the balance amount only from the judgment debtors, in case those deposits are there. In case such deposits are there, the respondents/ decree holders in the latter two writ petitions, who is also the petitioner in the first writ petition, will be entitled to withdraw the amount so deposited and they shall file a statement before the execution court showing the actual balance

amount due to them. The execution court shall adjudge the balance amount and proceed to have it realised from the judgment debtors and to record satisfaction of the decree.

12th April, 2007 (K.P.Balachandran, Judge)

tkv